

RAILROADS IN OHIO.

FAST FREIGHT LINES,

ETC.

ABUSES PRACTISED

AND

REMEDIES PROPOSED.

REPORT OF SPECIAL COMMITTEE OF THE OHIO LEGISLATURE.

BOSTON:

1867.

RAILROADS IN OHIO.

FAST FREIGHT LINES, ETC.—ABUSES PRACTISED AND REMEDIES PROPOSED.

Report of Special Committee of the Ohio Legislature.

Your Committee to whom were referred divers matters connected with railroad, telegraph, and express companies, to examine upon testimony and otherwise with direction to report such legislation as they might deem necessary in the premises, make the following report:

Your Committee met in Columbus on the 21st day of June last, and after full consultation, agreed upon the course and manner of their examination. They found the field so broad and so varied that with the time and means allowed them, their examination could embrace but few details. These must be left to the more ample provisions of future legislation for an examination, that both public and private interests very urgently demand. They have examined a large number of witnesses in different parts of the State, upon the branches of railroad management to which their attention had been called, and especially of abuses of which complaint had been made. The material parts of the evidence, the greater part of which was taken under oath, are herewith submitted to the Senate. Your Committee likewise collected the charters and copies of such proceedings as may have been taken by the railroad companies, having special charters adopting any general laws of the State; and also the freight and passenger tariffs of nearly all the roads in the State, and for the purpose of comparison, we obtained the printed rates of roads outside the State.

The information your Committee in this form are able to present to the Senate is indeed comparatively meagre, and yet it is quite ample enough, in their opinion, to show the urgent need of legislation to reform abuses, protect railroad property, and to preserve and maintain the rights of the public in its use.

As to the points specially referred to your Committee for investigation, we shall report on the order of the subjects rather than of the resolution :

1. As to freights, there has been constant and very wide discrimination made in the rates charged. All roads have their established tariffs, both for local and through business, by which they have professed to be governed. That for the through business is made in connection with the connecting roads, and generally upon a more or less complete understanding with rival routes of transportation. Yet until about six months ago, the tariff of through rates especially, was, at best, a mere guide, habitually disregarded wherever the obtaining of business required it, and often a mere cheat as against competing lines of transportation, and observed only with the small, the liberal, and the uninitiated shipper. The through rates, in fact, to a great extent, varied with each shipment, their amount being determined by "dicker and bargain" between the road agent and the shipper, and depending upon the vigor of competition and the shrewdness and persistency of the merchant. This departure from the established tariff is known among carriers as "cutting of rates," and has been carried to such an extent, that in through business, that upon which the charge is prorated among connecting lines, the amount actually received for carriage by each road, as stated by some of the witnesses, scarcely paid in some cases the cost of unloading the freight. The difference in charge upon local and upon through business for the same distance, is often startling and wholly without any just reason. Goods have been brought from New York to Cincinnati, a distance of nearly 900 miles by the more direct routes, for 25 cents per 100 pounds less than the established local rate from Cincinnati to Columbus, about

one-seventh of the distance. This extent of discrimination is not, perhaps, of very frequent occurrence, but it indicates a limit within which the difference between local and through rates has, with every degree of variation, been maintained.

The difference between the established tariffs for the two classes of business, if maintained, would afford the local shipper no considerable ground of complaint; but heretofore when the railroad officer has shown his printed Table of Rates, he has afforded to you but a very imperfect notion of the charges actually made upon through freights, and consequently no adequate idea of the difference between the actual charges upon through and local business. Your Committee believe that the published rates have been more nearly observed during the past six months, than perhaps ever before in the history of through railroad transportation in this country.

The reason of this unsteadiness of through rates, upon examination, becomes quite obvious. There are four trunk lines leading, two from the headwaters of the Ohio on the south, and two from the lower end of Lake Erie on the north, eastward to the Atlantic seaboard, actively competing with each other for the through business from the West to the East, and the return trade westward from the East. From the westward termini of these lines there are several roads stretching westwardly, connecting with numerous other lines, and forming a network of railroads, covering all the States north of the Ohio River, and stretching southward through Kentucky and Tennessee. All the roads connecting the eastern rail transportation lines except one, the Great Western through Canada, pass through this State. The Canada lines lie north of the main natural lines of trade between the East and West, and must compete at disadvantage with the lines through Ohio. Besides this line crossing twice the boundaries between Canada and the United States, trade may be subject to the embarrassment arising from changing restrictions upon international trade. South of the Ohio there is no rail route connecting the Mississippi Valley with the Atlantic coast, north of the Charles-

ton & Memphis Railroad, running through North Alabama and Georgia; Ohio thus becomes an isthmus through which the immense volume of rail commerce between the East and West naturally and most economically passes. Notwithstanding the immensity of this commerce, we have in Ohio now a more than adequate means of transportation provided.

The local business of the different roads of the State is in a great measure under their exclusive control, but is in a majority of cases at reasonable rates, insufficient in amount to maintain them. With these roads a determined competition for through business becomes a necessity. With other roads having a large and perhaps sufficient local trade, a through trade at reasonable rates becomes a desirable accession to their business.

To these motives of interest in obtaining through business by the several roads, is to be added the convenience and ambition of railroad officers. The through trade with its greater distance of carriage and larger bills, imposes less labor, and its wider movement and heavier capital confers greater distinction than the local trade. Out of these circumstances has sprung a competition that, regulated by no law, and restrained by no direct private interest or personal obligations, in spite of freight conventions, and agreed tariffs among the several roads, have carried rates down, at times, to a point that would make the through trade productive of continual loss.

The roads of the State entered into this competition with widely differing advantages. Some led directly from the principal commercial depots of the State, connecting at both ends with the leading lines of transportation on the East to the seaboard, and on the West to the Mississippi and the Northwest, and having close and permanent running arrangements with connecting roads, were able to draw to their lines, naturally, the through trade, with less sacrifice in competition and less outlay in obtaining freight. Others intersected the natural direct lines of trade between the East and West, and could carry it only upon longer routes

and without convenient or advantageous connections. To make up these disadvantages, these roads have in one or more instances expended large sums in building up connecting roads that have in turn added but comparatively little to their business, and expended sums upon means of water transportation that have been wholly lost, thus using up the profits and adding to the debts of the road, without any commensurate gain in through trade. Circumstances have conspired to render this strife for through trade an exciting one, and scarcely less destructive to the value of railroad property, than it was of honor and integrity in the dealings of railroads among themselves.

But while this competition is reducing the rates upon through trade, there is a natural and necessary tendency to add, in something like equivalent proportions, to the charges upon local trade.

A railroad manager desiring to secure dividends to the stockholders, will be inclined to make up his losses on through business, that he cannot control, by additions to the local business that he can control. Though specific losses upon one class may not be made up by specific additions to the charges upon the other, yet a general failure to make profits and divide dividends, must be followed by a general advance in rates, which in turn, have heretofore been maintained as to local trade, and habitually disregarded in the through trade.

Security in the possession of local trade leads to indifference to its claims and interest, and on the other hand a precarious hold on the through trade produces, as to it, sensitiveness and constant concessions. In behalf of the one is enlisted the influence of heavy transactions and concentrated wealth of the large cities. The interests of the latter are feebly maintained by the former and the tradesmen of small means, and the local public has its scattered capital, its business without organization, and its transactions detailed and insignificant.

The danger, therefore, is that the local trade, dependent and unprotected, will be charged with burdens beyond what

it ought to bear, and the through trade will secure concessions to which it is not entitled.

That charges for carriage of freight should not be in absolute proportion to distance, is undoubtedly true. There are services—such as loading, billing, and unloading—that are the same with all freight. Freights for short distances cannot be carried to the same advantage as those for longer distances, involving leaving empty cars at way stations, carrying of partial loads, and the inconvenient handling of freight. Adding the charges for these services, the just rate per mile upon way freight must be increased with the reduction of distance. The rule governing a just charge is, however, in all cases the same,—the actual services rendered; and whenever the charge for the materially longer distance is less than that for the shorter, whether the freight be local or through, an unjust discrimination is made against the shorter distance.

An ingenious argument is made in the testimony in favor of discriminating in rates in behalf of the shipper living at a greater distance from market, that he may have equal advantages in it with the shipper living at a less distance. However desirable it might be to secure entire equality of all, in their access to the markets, neither justice nor public policy will allow the use of such means. It involves either a loss to the railroad, or an unjust burden upon the shipper for the shorter distance. If the railroads adjust the rates so as to make their average profitable to them, one shipper must pay more than a fair profit, and the other less. If, however, but a fair rate is charged to one shipper, the rate to the other, if on the shorter distance, must exceed a fair amount, and if on the longer distance must be below it; the railroad in one instance receiving more, and in the other less, than a just average compensation.

Railroads ought not to be used as charities for the benefit of shippers remote from markets, nor ought one shipper be required to defray any portion of the expenses of another.

The rule proposed, moreover, destroys all certain guides as to the formation of rates, and removes all checks to dis-

criminations however oppressive, both depending upon the varying judgment of railroad officers, as to public policy and the interest of trade, from which, necessarily, there is no appeal.

It aids the aggressive demands of the through trade, excusing discrimination and cutting off rates in its favor.

The right to grant preferences to communities or particular shippers, with the view of developing and increasing trade, is claimed by different roads in other forms. Especially upon roads leading into coal regions preferences are granted in transportation to the regular miner or dealer, over the irregular one; who are regular and who irregular depend upon the personal feeling, imperfect information and judgment of the officers of the road. Other preferences are given that we will not occupy space to specify. In any form in which the right of such preferences may be claimed, limited only by the judgment of the officers, and not carefully restrained by law, it is inadmissible and fraught with great public mischief.

It opens the door to favoritism and oppression in the hands of weak, passionate, or corrupt officers, and to the improper and yet insensible influence of personal partiality or prejudice in the hands of the honest ones, with no rule to guide the officer or protect the public, except the real or pretended judgment of the former, as to the interests of the public on the road.

It tends not less to a monopoly injurious and oppressive to the public.

It is corrupting in its tendencies. With the honest officer a judgment, depending upon an uncertain rule of interest or policy, may be powerfully influenced by personal partiality. Preference obtained through mere influence in one case may in others be bought for a consideration. With the control of such immense means of fortune, the pressure upon a railroad officer, for advantages in transportation and rates, would weary the vigilance of the most upright. The immunity enjoyed by railroad officers from visitation and review of the management, resulting from the complication of their

business, the multitude of stockholders, and the absence of suitable legislative provision for it, would greatly increase the temptation.

Such discriminations are prejudicial to the interests of the road, by producing jealousy and complaint in the communities along its line. It connects the road with their business, its remuneration, its management, and its markets, and thereby greatly increases difficulty and complexity in its own affairs. Some of these mischiefs are illustrated in cases that came under the observation of the committee, and are referred to in the testimony.

The Central Ohio Railroad, as shown in the testimony, made arrangements with Mr. Kearney during the season of the coal famine in Cincinnati, in 1863-4, as a regular shipper, giving him preference in transportation over irregular shippers. With this preference, according to the testimony of Mr. Warner, with the control of transportation in the markets of Zanesville, he was able to exact 20 cents per bushel of the consumer for coal that was purchasable of the miner at 7 cents without moving a pound, or expending a cent in the transaction himself.

On the Sandusky, Mansfield & Newark Road a like but exclusive preference is given to Mr. Wheeler and Mr. Boalt, in the coal trade. Under this arrangement Mr. Wheeler has sole control of the coal trade to all the communities on that road.

On the Cincinnati & Zanesville Road the most serious trouble has grown out of the attempt of the road to manage the coal trade through its control over the transportation. The officers, after some years' experience, were disappointed as to the value of that trade to their road. It found its market in Cincinnati, Dayton, Xenia, and other places in the valleys of the Miami. In this market it could not compete with the trade of the river, and therefore found the markets profitable only when the river was low, its coal supply reduced, and prices advanced. Of course its margins were uncertain, and often very small. This brought the miner and the railroad into frequent negotiation as to rates. The

shipments being made only when profitable, were irregular, both parties suffered, the miners from uncertain market, and the road from the irregular use of its transportation. In this neither were to blame, and yet each complained of the other; the road that the miners badly managed their trade, and the miners that the road, in season of low prices, would not aid them in reduced rates. In connection with this dispute, as might be expected, there was much ill feeling, mutual accusations, and many unnecessary and irrelevant issues. The complaints of the miners were helpless, and if patiently and considerately borne must soon have died out. The road had the power, and its officers determined to organize and conduct the coal trade in a different manner, by confining the miner to the simple work of mining, and placing a dealer on the road to purchase the coal at the mines, and manage the markets for its sale, giving to him the control of transportation to that end.

It was a broad and unwarrantable exercise of power over the business of its local communities, under the pretence of developing trade, increasing the business of the road, and the misconduct of the miners.

The miners contended earnestly, and often with bad temper, for the right to manage their own business in their own way. The road was too strong for them; they could do nothing without transportation. The result was that an association, embracing all the miners on the road, with the exception, perhaps, of one, was broken up, their business, to a considerable extent, destroyed, some of the mines wholly stopped, and their workmen thrown out of employment, preference in transportation given to other miners, and those doing business only able to obtain a reduced number of cars by selling their coal to the adjoining station agent.

To these results are to be added a vindictive feeling toward the road, and a prevalent imputation against the integrity of its managers.

It can hardly be said that a power exerted at the mere option of a railroad officer, with such results to private property and business, can be founded upon any sound reason of public policy or safety.

The railroads are public uses. The equality of the public upon them has always been a fundamental element in the law. English legislation has, with great care and vigilance, guarded it, and forbidden, in every form, preferences and discriminations of the character we have discussed.

Managing such uses for equal public accommodation, the officers of railroads have nothing to do with questions of public policy or the general interests of the country, and should be confined to the duty of common carriers, leaving such questions, and the adjustment of the relative rights of citizens and communities, to the public authorities, to whom they belong, where partial interests have less direct influence, and the public, who are directly concerned, have representation.

As to the local trade, there is a very wide diversity of rates upon the several roads of the State. This diversity seems to have very little reference to difference in the cost of construction, equipment, and operation of the roads, but seems to depend more upon their financial necessities and the amount of competition. Upon the same road there is found also great differences of rate at the several stations, governed chiefly by competition at points on the roads with other lines of transportation. The law of May 1, 1852, regulating rates where roads compete with the canal lines of the State, is habitually disregarded. Special rates are also made with particular shippers, very often from personal favoritism, or from employment on the road, but generally the local tariff is followed, and not often changed. The discrimination against non-competing points, and the difference between the rates of different roads is often very great. This difference of rate is more marked in the coal trade.

Your Committee had not the time, and were not fully possessed of the means of analyzing the freight tariffs of the different roads. Abuses and discriminations have resulted, usually, from a departure from, rather than an observance of, them. Besides, we could give but little information as to the fairness of any particular rate; that must be determined with reasonable certainty by data not in our posses-

sion, consisting, in part, of the cost of each road, the expense of keeping it in repair, and of operating it, and the relative expenses of transportation for different distances, and descriptions of freight. This data is derivable only from statistics of each road carefully collected and analyzed for a series of years.

To this end ordinary railroad reports furnish but little aid, and among the railroad men that we examined, the estimate of the cost of carrying freight varied from one half cent to four cents per ton per mile. Many of the most intelligent declined to give any estimate. Yet it is manifest that with each road this ought to be ascertained with a degree of certainty. It doubtless differs with different roads, being affected by difference of grades, curves, situation of roads as to structures, drainage, embankments, and water-courses, its cost of construction, and the nature and amount of its business.

However strictly, and even severely the State may deal with railroad management, it ought to deal with indulgent liberality with railroad investments. They have been of incalculable benefit to the State, developed its resources, aided its population, and opened its ways to market. Investments in these public uses were made under an implied assurance that they should be carefully protected, and the right to a reasonably profitable compensation guaranteed. The expectation of profit has been generally disappointed. The stock in most of the roads has been either unproductive, capitalized to a small per cent. of its original amount, or wholly sunk. Not one-fourth, probably, of the railroad investments in the State pays a dividend this year. It is therefore manifest that, assuming the present management to be judicious and faithful, railroads are not producing a fair compensation generally for the investment in them.

Until the State, therefore, shall have provided a means for ascertaining the amount of a fair compensation, including a reasonable profit, and of exposing and correcting the mismanagement of railroad officers, the stockholders of railroads would be exposed to the danger of great injustice, in a rate now necessarily to be fixed upon a guess.

The adjustment of local rates to different distances is of far more difficulty than fixing the fair average, inasmuch as it cannot be proportioned entirely to distance.

But while your Committee are able to discover no wise or just means of ascertaining the fair amount of rates, and believe that any attempt at interference by the Legislature in that respect, would probably result in injustice and embarrassment, yet we are satisfied that there are fundamental provisions against unfair or oppressive discriminations in the local trade, which should be adopted by the Legislature and strictly enforced :

1. No railroad company should be permitted to charge more for a shorter distance than for a longer one.

2. Every company should be required to publish its tariff of rates, and strictly prohibited, under penalties, from allowing reductions from it to individual shippers, or classes of shippers.

3. Preferences in transportation, except such as are allowed to live stock, perishable freight, and the like, and undue advantages of all kinds, whether to classes of freight or shippers, should be prohibited.

The difference between the cost of transporting local and through business from one end to the other of a road is very small, and generally none at all, and yet the difference of rates is frequently very great. The witnesses examined on this point concur in the statement that the local business is much more profitable, in proportion to its amount, than through business. And when we reflect that railroad investments of the State yield a trifling average of profit, and most of them none at all, it is apparent that through rates must at least be below its proper cost of transportation.

This is the result of a competition in which the railroads seem to have been in some measure helpless, and in part reckless. The strife has been to gain the through business : those having it, to retain it, others to acquire ; one class recklessly reducing rates, another helplessly yielding to the decline, all certainly, at times, falling below cost. Partial expedients, conventions among railroads of very short dura-

tion, have been adopted, to no purpose. It has been a ruinous contest, producing confusion in railroad affairs, trickery and empiricism in their management, and an isolation and distrust among the roads, to be found in no other branch of business. This we believe is the result of a want of that prudence, capacity, or faithfulness that characterizes the business management of the country in other branches. Ordinary mercantile competition is checked by private interest, and the laws of honorable trade seem to have had very little influence with the managers of railroads, in their competition with each other.

The unsteadiness of rates resulting from this competition, disturbs prices, and makes business profits uncertain. To provide against this, the prudent merchant must increase his general margins, and the consumer becomes in the end the sufferer. It is therefore a mischief, in which the public are interested and by which it is oppressed.

Undoubtedly the complete remedy for this mischief is a capable and faithful management of the roads. Legislation by this State is necessarily partial in its operations. It would restrain our own roads in this competition, and leave the others free. If we were in possession of sufficient information to determine the cost of transportation, we might, perhaps, limit the reduction of rates to that point. We are without such information.

There is, however, in our judgment, one rule that may be adopted with entire safety to the interest of the roads of the State as against competing lines, namely: that the roads and their agents be required to publish, in proper form, their freight tariffs, which they shall observe with all shippers until changed by other published tariffs. Whilst this may not of itself materially arrest a ruinous competition, it will secure the equality of shippers, and aid toward the maintenance of established tariffs agreed upon between competing lines.

The congress of the four Eastern trunk lines, held in New York last year, opens, it is to be hoped, a new era, that with the aid of concurrent legislation upon the part of this State,

Maryland, Pennsylvania, and New York, railroad traffic and the relations of railroads among themselves may be placed upon the fair and honorable footing upon which the other business of the country is conducted.

There are other discriminations in favor of the through trade of which complaints have been made, and which are, as the Committee believe, in part well founded. It is alleged that preference is given in transportation to this trade. To what extent this is true we had not the time fully to inquire. With the through trade acquired in part by the facilities and dispatch afforded to it, and the local trade held without those accommodations, we scarce see how, in the present condition of management, a preference could be prevented. To this tendency is to be added a feeling of patronage, and in some cases of contempt, with which we found the trade regarded by railroad managers in the State, the controlling consideration being given to the through trade.

4. In the strife for through business, with as many competitors in the market, almost, as there are railroads, the policy of employing soliciting agents in all the larger cities, and even in the smaller markets, was established. In some cases, issuing bills of lading in their own name, and in all cases, intervening between the carrier and the shipper, the carrying trade in a large measure soon passed under their influence and direction, and could be turned upon any line of transportation that would give them the largest salary or percentage. They became expensive to railroads in proportion to amount of business they could command. To insure their fidelity and diligence, commissions were generally substituted for salaries. Evidently many of the roads, certainly not all, were determined to have business, whether profitable or not, no doubt with the view of being able to make it profitable when secured, and therefore paid to their agents commission upon the amount, instead of the value of the freight they obtained, and the officers not being able to know the condition of the markets, or exigencies of competition, were also compelled to leave to him a large discretion as to rates. The result was inevitable. Rates were cut with sole

regard to increase of business, and all established tariffs were of course broken down as soon as published. Regular custom to any road was impossible. Rates being thrown into the market, the shrewd merchant changed from one line to another, according to the advantage in rates he could secure. Thus, these agencies, instead of building up a permanent custom to each road, destroyed that of all, and placed rates wholly beyond their control. Unable to combine among themselves, the roads were in a great measure helpless, compelled either to leave the market or pay large sums to the agencies, and accept a traffic that yielded little or no profit. Conventions among the roads, honorably maintained, would have been a remedy to this oppressive evil. As it was, a resort to freight lines became an unfortunate alternative.

5. The merchant has had two causes of complaint as to the conduct of the through trade by the railroads, viz.: Delays in the shipment of his goods, and difficulty of procuring settlement of losses and damages.

With the greater speed of railroad transportation, has occurred a change in the mode of transacting mercantile business. Instead of purchases in large amounts and at long intervals, the merchant runs his stock close, and buys upon order daily, as his daily wants require. Promptness in forwarding becomes highly necessary. For the same reason losses occurring in continual small shipments, it is also important to the merchant, because of their frequency, to be able to adjust them with ease and promptness. Yet continual delays in forwarding embarrassed his business, and in adjusting losses he was often required to trace it through connecting lines, and unable to fix it anywhere, was frequently compelled to abandon the claim altogether. This resulted from want of proper organization of their common business by connecting lines, but not wholly from mismanagement. Through lines were composed, in the main, of a greater or less number of fragmentary local roads, forming in part, accidental connections, and, working independently, with everything to learn in a new system of transportation,

frequent difficulties were to have been expected. That organization of the through business, effected more recently by arrangement between connecting roads, was prevented by the jealousies and distrust arising out of the unregulated competition heretofore spoken of.

Commission merchants and freight agencies availed themselves of this confusion to organize freight lines upon the routes for which they were employed, and with their control over the shipping business of the country they were able to command advantageous contracts with roads.

They issued their through bills of lading, and provided agencies at the points of delivery for the adjustment of losses, and supplied thereby the great want of the mercantile community, of prompt dispatch of freight and settlement of claims. The roads were separately powerless. It was a sorry choice between the ruinous rates of soliciting agencies, or dividing receipts with freight lines. The choice of the latter was, no doubt, in many cases an advantageous one.

We have inquired with much care into the operation of these lines, the uses they perform, and their effect upon the interest of stockholders and the public, in railroad property and conveniences. There are two classes of these outside organizations or freight lines in operation upon the roads in Ohio. One class issue their own bills of lading, and receive a percentage of the earnings of the freight from the road that carries it. Of this class is the Central Express Company, operating between New York and Chicago, over the Cleveland & Toledo Road. That road allows them their lowest rate per hundred pounds, and agrees to forward their freight by the fastest freight trains, promptly investigate and allow just claims, and allow to the company four per cent. of gross earnings on eastward bound, and six per cent. of westward bound freight.

This leaves the Express Company to make any advance rate it may wish with the shipper, and the railroad all the labor of transportation, paying a percentage for obtaining the business.

Of the same class is the Erie Transportation Company,

operating over the Lake Shore, Cleveland, Columbus & Cincinnati, and Little Miami, and organized in connection with the New York & Erie Railroad. We have had but little opportunity to investigate into the operation and effect of these companies upon the interest and income of the roads.

The second are far more numerous. They issue their own bills of lading, and in some cases receive and load and unload and deliver their own freight, and in all cases adjust the losses. They generally pay to the roads so much per car at an estimated tonnage. This rate varies with different roads and different freight lines. They make their own rates with the shippers. Of this class is the Merchants' Despatch, owned by the American Express Company, and operating from the New York Central over the Lake Shore, Cleveland & Columbus, Columbus & Xenia, Little Miami, Cleveland & Toledo Railroads, &c., the Great Western Despatch, owned by the United States Express Company, and operating from the New York & Erie Road over the Atlantic & Great Western, Cincinnati, Hamilton & Dayton, Cleveland & Toledo, &c., the Empire Transportation Company, operating from the Philadelphia & Erie Road over the Lake Shore, Cleveland & Toledo, Cleveland & Columbus Roads, &c., the Star Union Line, operating from the Pennsylvania Railroad over the Pittsburg & Fort Wayne, Pittsburg, Columbus & Cincinnati, Columbus & Indianapolis, Little Miami, &c., and the Great Eastern Despatch, organized upon and operating chiefly over the Cincinnati, Hamilton & Dayton, and Dayton & Michigan Railroads. The Great Eastern Despatch was the only one of these lines organized in this State, and having its principal office here, and therefore the only one whose organization, operation, and profits we could fully examine. The Empire Line, so far as we have learned, and the Star Line, in its contract with the Pittsburg, Fort Wayne & Chicago Road, pay a rate per hundred pounds, formed by an estimated average of rates received from like freight in the general traffic of the roads.

The balance of the contracts, so far as we have obtained them, except that of the Great Eastern Despatch, are for a

car load rate, based upon a fixed tonnage of eight tons to the car, a fixed classification of that amount, and the through rates of the road from time to time established. The Merchants' Despatch pays the line from Erie, by way of Cleveland and Columbus to Cincinnati, for 12,000 pounds of first class freight, and 2000 pounds of second and third classes each, yielding the highest compensation to the roads of any of the lines. The Union Star Line pays upon all the roads except the Pittsburg, Fort Wayne & Chicago Road, for 5000 pounds of first class, 4250 pounds of second and third classes each, and 2500 pounds of fourth class freights, a classification far less favorable to the roads than that with the Merchants' Despatch. The Great Eastern Despatch have a similar arrangement, and pay the Cincinnati, Hamilton & Dayton Road about \$20 per car from Dayton to Cincinnati, a distance of sixty miles. These lines were charged for any amount exceeding the limits of eight tons. The Great Eastern Despatch was charged fourth class rates for eight tons, with the privilege of carrying ten tons. The relative freight rates of the different classes of freight may be illustrated by one or two examples: The through rates, from Cincinnati to New York, per 100 pounds, were, November 6, 1866, 1st class, \$1.90, 2d class, \$1.60, 3d class, \$1.25, 4th class, 80c. From Cincinnati to Toledo, the rates were, on 1st class, 60 cts., 2d class, 50 cts., 3d class, 40 cts., 4th class, 20 cts., the 4th class being respectively, in the above cases, two-fifths and one-third of the 1st class.

The Union Railroad and Transportation Company, known as the Star Union Line, is a corporation under the laws of Pennsylvania, organized in the fall of 1863, with a capital of \$1,400,000, subsequently increased to \$3,000,000, and went into operation, January, 1864. It operates over the Pennsylvania Central Road, and extends from its termini eastwardly and westwardly over roads leading to and connected with the Central road. Its principal movers were commission agents of that road in Philadelphia and Pittsburg, and is said to embrace a portion of the officers of the road among its managers and stockholders. Its stock was exten-

sively distributed and sold at various prices ; to railroad men in Ohio, so far as we have learned, at fifty per cent. of its par value. It built, at first, 700 cars, and subsequently 300 more were added, making in all 1000 cars, costing something over \$1,000,000. It leased one pier in New York, and owns a small amount of real estate.

This company has paid upon its stock, since it went into operation, a steady dividend of one per cent. a month, with a surplus that has increased its assets to an amount probably exceeding the par value of its capital stock issued. The stock has sold at \$85 per share of \$50, and is bought and held by the shrewdest of our business men as a safe and productive investment. In one instance, coming to the knowledge of your Committee, \$22,800 of the stock, costing the owner thereof a little over \$7100, was, after a careful examination by the Board of Equalization of Hamilton County, valued and assessed for taxation at \$80 per share, or \$36,480. We are led to believe that this fact is a measurably just indication of the enormous profits derived from its business. It may be remarked, on the other hand, that one of the roads in Ohio over which it operates is in the hands of a receiver, with one-half of its capital stock transferred to pay arrears of interest on its bonded debt, and the other half receiving no dividends. It increased the transportation over roads it operated on, east and west, to the number of its own cars, which were adjusted to suit the different gauges, but was allowed mileage by the roads for their use. It carried goods from New York to their Western destination without change of bulk, loaded and unloaded, and delivered them, and billed and collected the freight, assuming the whole responsibility to the shipper for losses.

The Great Eastern Despatch was a partnership under the name of Williams & Slocomb, with a capital stock of \$30,000, divided into six shares, two of which were taken and held for the benefit of the Freight Agent and Superintendent of the Cincinnati, Hamilton, and Dayton Road. Fifteen thousand dollars were paid in, in connection with their arrangement with the road as to transportation. Williams & Slocomb

rented the second and third stories of the freight depot of the C., H. & D. Road, in Cincinnati, and invested \$6000 in horses, drays, and other necessary property. They went into operation on the 1st of January, 1865, and at first operated exclusively upon the C., H. & D. Road, and the Dayton and Michigan Road, which the C., H. & D. Road had perpetually leased, forming the line from Cincinnati to Toledo. They arranged with various Lake transportation lines, and employed agents upon various connecting lines of roads, and upon the river south of Cincinnati, to direct freight over the Cincinnati and Toledo route consigned to them. Subsequently they made an arrangement with the Chicago and Eastern,—a road connecting with the Hamilton and Eaton branch, leased by the C., H. & D. Road, to operate on that line. There is, however, no evidence of any considerable amount of business having been done under this arrangement.

It is doubtful whether the Despatch materially increased the business of the roads. The chief effect was, probably, merely to consign business, naturally passing over the roads, to them. This was the effect of their arrangement with the transportation lines terminating at Toledo, and sending freight southward. Mr. Reed, Freight Agent, says the Despatch obtained about one-half of all the freight from Cincinnati to Toledo, between which points there was no other rail route, and therefore no rail competition. During the first business year of the Dayton and Michigan Road, after the Despatch went into operation, the gross earnings fell off \$117,829.51, and the net earnings \$91,046.03 from the previous year; and in the same time the gains in the gross earnings of the C., H. & D. Road fell off \$38,818.48 over the previous year ending April 1, 1865, and \$111,488.43 over the year 1864. But while there was no falling off of actual gross earnings of the road, there was an actual loss in the net earnings, notwithstanding the Atlantic and Great Western Road had just begun to pour the whole volume of its traffic over it, and the recently opened Chicago and Eastern was bringing an increasing trade. Besides, for some years

previous, the C., H. & D. Road had been making cash dividends; yet, at the end of the first business year, after the Despatch went into operation, it issued \$500,000 of new stock, and paid the usual dividend to the stockholders with a portion of the stock so issued. Other causes may have, and doubtless did contribute to the change in the financial showing of the road; yet we feel entirely warranted in assuming that it was in part owing to the injurious operation of this arrangement.

On the other hand, the Despatch, with the actual investment of but about \$6000, made in the first eighteen months of their operations \$130,000 of profit, about $4\frac{1}{2}$ per cent. upon the entire capital stock of the road. To these enormous profits, to make up the gross receipts of the Despatch, are to be added their expenses, including rent of warehouse, salaries of agents, &c. It is not disputed that these large sums of profit and expenses were, with trifling exception, taken from the freight earnings of the roads. In some cases the evidence shows that of the freight paid by the consignee, the road received \$36, and the Despatch received from \$40 to \$48 per car. The road received for a few shipments \$16 per car, from Toledo to Cincinnati, being \$4 less than received from the Great Western Despatch from Dayton to Cincinnati, less than one-third the distance; and the rates received of the Despatch, by the road, from Toledo to Cincinnati, ranged from \$16 to \$36 per car, whilst those received by the Despatch from the shipper varied from \$21 to \$95 per car.

The services rendered by Williams & Slocomb to the road for this heavy draught upon its earnings, was substantially the organization and superintendency of the freight collection, and of the soliciting agencies, the road, with its own employés, attending to the loading and unloading of the freight. In estimating the necessity and value of these services, it is to be borne in mind, in the first place, that in the ordinary management of roads they are embraced in the duties of freight agent and superintendent, who were in this case partners of Williams & Slocomb; and in the second

place, that the remaining partners were young men, with one exception, without business experience, and two of them absent for some time after the beginning of business.

However bad this showing may be of the profit and usefulness of this class of freight agencies, it is to be said that at the time the Despatch was established but comparatively little was known of their operation, that the officers were desirous of protecting themselves against the effect, as they believed, of similar agencies on other roads upon their business, and that the whole arrangement was submitted to and approved by the Board of Directors.

We have stated with more particularity the organization and results of the Great Eastern Despatch, because it fully exemplifies the more essential mischiefs of that class of freight agencies, compressing them within one view, without that magnitude of operation that imposes upon, and those specious conveniences that embarrass, the judgment. In it is found the usual temptations to officers in the grossest forms, the expensive uselessness of the services, and the vexatious hardships upon the unfortunate stockholders, necessarily belonging to this class of agencies.

The freight of these lines is hauled upon the tracks, usually in the cars, and always by the motive power, under the direction of the working force of the roads. The means and labor of transportation are wholly afforded by them. All that is claimed for freight lines in matter of transportation is that they occasionally build and furnish cars, thereby supplying deficiencies in the freight equipment of roads, provide agents along the routes at points of transfer or connection, following the shipments, and in case of freight blockade or accident, seeing that their freight is got out and sent forward.

In case of accident, it is the duty of the roads to repair breaches, and forward the freight as rapidly as possible. If this is not done, the agents of freight lines simply perform the proper work of road officers; they have no more ability to obtain hands, and ought to have no more skill in hiring and working them at the point of accident. These accidents

seldom occur at points where other transportation can be had. In fact, in all of our investigation we have heard of but one instance in which any of these lines attempted to provide any means of transferring freight over a point of accident, and that was of merchandise by an Express Company, and but two or three cases in which new means of transportation was provided in cases of delay. Accidents and blockades affect the business of freight lines generally to the same extent as other transportation, and in any event, affecting so trifling a part of the whole traffic of the country, they do not form any adequate foundation for such extended and expensive organizations.

We know of only three freight lines having cars of their own, viz., The Great Eastern Despatch, 11 cars; Star Union Line, 1000 cars, and the Empire Line. There may be more.

During the war, when the Government was using very largely the freight equipment of the Pennsylvania Central, and almost exclusively of the Baltimore and Ohio, the business pressure upon the remaining transportation of the country was very great, and the supply of cars inadequate. This temporary want the Star Union Line in part supplied. Both before the war and since, however, the aggregate equipment of the country has been more than sufficient for its trade. It is this excess of transportation facilities that gave rise to the violent competition before the war, and is starting it since. There is no general convenience, therefore, arising from the addition to it now.

In so far as they may load and unload their cars, and bill and collect their freight, it is but a question as to who shall employ the clerks and laborers, and the relative advantages of two or more organizations over one in managing the same general business.

That these lines have heretofore carried and delivered freight with more promptness and despatch than formerly by railroads alone, there is no doubt. How is this done? In part, by providing agents along the route with full information from the shipping point of the freight moving; to watch and see that it is not unnecessarily delayed by a dis-

abled car, or other obstruction, and neglected on side tracks. This is simply a guard against the negligence of railroad employés, and if provided in the interest of the whole traffic, would exert a good effect in improving the promptness of railroad transportation. This greater promptness is also in part owing to preference in forwarding their freight, improperly obtained by tampering with the employés of the roads, or by secret contracts with railroad officers.

Every railroad president and superintendent, and every agent of the freight lines that we have examined, deny the allowance of such preference. In one of our examinations, as will be seen, a superintendent swore that, so strict was their rule, that he would summarily dismiss an employé who would permit it.

* * * * * * *

Most of the railroad presidents whom we have examined have been offered stock on favored terms, or as a gratuity, by these organizations. The presidents of two roads were offered gratuitously 10,000 shares each of the stock of a Pennsylvania corporation, in connection with a contract pending with their companies, and, with the approval of their board of directors, they accepted it in a secret trust for their use. Indeed, it may be safely affirmed, without specifying the particular cases that have come to our knowledge, that every one of these organizations has sought to distribute their stock upon terms more or less favored among railroad officers. We shall hereafter advert to the actual interest of these officers in them.

On the other hand, these lines having no facilities of their own, are constantly tempted to deceive the public by promises they cannot perform, and by representing advantages they do not possess. They have afforded a convenience to the shipper, which, in the isolation and strife among railroads, they did not for a time afford him, in settling losses promptly by agent at the place of delivery. Railroads heretofore having but partial running arrangement, and declining responsibility for each other, delayed the shipper with tracing losses, and often compelled him to go to distant

roads to recover them. In this respect there has been a steady improvement. It is not now a serious evil, and a wiser and closer co-operation among railroads will afford to the public a complete remedy. But in connection with this convenience, these organizations are giving rise to a kindred danger.

Our courts have maintained the general common-law liability of carriers for losses against attempts to limit or abridge it, by contract or otherwise. The American Law Register, during the past year, has published elaborate articles to show that the law does, and if not it ought to, materially qualify the liability of carriers of this character, especially express companies, because they have no control of the means of transportation. The railroads, it is assumed, are not liable, because they are not parties to the contract with the shipper. Thus, between the two agents of transportation, it is proposed to deprive the public of security for their freight in the liability of either.

We have already given some facts showing the enormous profits of these organizations. These profits are either derived from an increased rate to shippers, in which case it becomes a burden to the public, or by taking a part of the fair earnings of the railroads, in which case they are impoverished, or in part from both, which last is probably the true hypothesis. The case is a simple one. There is an additional party to provide for, with no moderate wants, requiring heavy dividends and large surplus. The roads already impoverished with their own strifes, can spare but a part; rates must be increased and the public pay the balance. The price is a heavy one for the temporary convenience afforded, but must be paid.

In the meantime stockholders are without dividends, the roads are out of repair, and without fences, and the public are losing life and property from defective roads and machinery, and still paying high rates for their accommodation.

Some of the roads over which these organizations operate, undergoing repeated capitalization of stock, are in the hands of receivers for the benefit of their creditors, and others,

with their stock wholly sunk, are being sold to pay off their debts.

A long step, in the right direction, towards the relief of the railroads, has been made in the voluntary co-operative movement of roads forming lines of transportation, to organize their through freight business under one management for their sole benefit. Of this character is what are known as the White and Red Lines. The Red Line was established by the New York Central, the Lake Shore Roads, and Michigan Southern and Northern Indiana, to include also the Central Massachusetts Roads, forming lines from Boston, New York, and Albany, to Chicago. The White Line was established by the same roads east of Cleveland, the Cleveland, Columbus, and Cincinnati, Columbus, and Xenia and Little Miami, and Bellefontaine Railway Companies, intending to embrace all connecting roads, East and West, that desired to become a part of the organization, forming through lines "between Boston and New York in the East, and Cincinnati, Louisville, Evansville, and St. Louis, and such other cities in the East and West as deemed advisable, and all intermediate points." Each road furnishes its quota of compromise cars to the line, which has its superintendent and agents. It has to the public the unity of ordinary freight lines. It traces and locates losses, and settles them at the point of delivery. After paying expenses, the balance of the common earnings is distributed among the roads according to the service each rendered in the common business, the through rates of the several roads being charged. This plan secures the advantage of a common agency in all the markets, under the immediate supervision of the roads, dispenses with irresponsible and expensive commission agencies, and relieves the road from the burden of outside freight organizations. It substitutes co-operation among the roads for mutual opposition and injury, places rates upon a steadier footing, and above all, it places the whole trade of each road under a management in the same interest, and thereby secures the equality of the public in transportation. It provides a dis-

tinct organization and management of the through business of each road, without depriving it of its profits. The through business, provided with its separate facilities, no longer conflicts with the conveniences of the local trade, and the officers and agents of the road, relieved in a great measure from care of the one, can devote so much the more attention to the accommodation of the other.

This plan may have abuses, and doubtless will have, in its details. These must be guarded against, in part, no doubt, by legislation. They must be provided against as they appear. Nor do we intend to approve of any precise plan, but only the general principle of co-operation among the roads of the country, indicated in the Red and White Line organizations.

The result, therefore, of our examinations has been, that outside freight organizations ought to be discouraged or prohibited by legislation.

That ample authority should be given to our own roads, to make all necessary co-operative contracts with each other, and with the roads and transportation lines of other States, for the transaction of their common business.

Before dismissing this subject, we cannot forbear to call attention of the Senate to a theory and plan of railroad management now extensively, and in a degree secretly entertained by railroad officers and transportation men, of especial concern to local interests. It is proposed, that instead of discouraging freight lines and transportation companies, the railroad companies shall themselves withdraw from the carrying trade of the country, and opening their road as a highway, shall, with their own locomotives, and according to their own time-table, draw the cars of every person or company that may desire to come upon their road. This plan is urged in manifest forgetfulness of all accommodation to local communities, and in sole view of the interest of the through trade. Under it, such communities only could have freight facilities, that could afford trade of sufficient regularity and amount to induce some freight company to regularly to connect with it. The time, the extent, the manner,

and even the existence of transportation facilities upon the road must depend wholly upon the changing interest, ability, and fortune of the companies that would operate on them. Such facilities might be depended upon between important commercial depots, but could not be secured to the smaller local stations. There is no obligation to furnish them, chargeable upon any responsible party that has a dollar's worth of property in this State that may not be removed in twelve hours' time, or any corporate existence amenable to legal process, or any interest in the communities of the State further than the trade that for the passing hour they can afford. Entire protection to the local interest of the State demands that railroads should not be permitted to abdicate any part of their offices, or farm out their duties to others to perform.

During the war various causes contributed to largely increase the amount of goods carried by express companies upon the passenger trains, which imparted a new character to the business, and gave great importance to those companies, as a new channel to the more valuable commerce of the country. Had this continued, it would have presented some serious questions as to the safety of travel and the interests of railroads, for perhaps the Legislature, and certainly railroad managers to solve. With the removal, however, of the active causes of increase during the war, and the great improvement in freight facilities since, their business in carrying freight has declined, and the tendency certainly is, as trade and prices become settled, to restore to the ordinary freight transportation the whole carriage of merchandise and other valuable freight, heretofore shipped in part by express. This change will certainly take place if the plan inaugurated by the Baltimore and Ohio Road, of running a light freight train at passenger speed, carrying freight at the usual rates, should be generally adopted by the other roads.

The largely augmented profits of the Express Companies, resulting from this temporary increase of their business, produced its natural result. A new company was started,

with a formidable capital, widely distributed among the mercantile communities of the United States, giving to it at once the advantage of a large trade. The three old companies, the Adams, the United States, and the American, had divided the territory over which they operated among themselves, established common rates between the larger points where they should compete, and arranged to carry the freight of each other to its destination when taken by one company to be delivered within the territory of the other. They thus established for themselves substantial monopolies in the express business within their respective territories. Their rates were fixed arbitrarily, and of course were influenced by no competition.

Immediately upon the Merchants' Union Express, the new company, going into operation, a private circular was issued by one or more of the old companies, forbidding their agents from having "business relations with this organization (M. U. Ex. Co.) directly or indirectly," and commanding that "no express matter of any description is to be received from them or delivered to them, whether paid or unpaid, consigned or unconsigned." They were also directed "to retain the business at whatever reduction in price may be necessary," on all routes competing with the Merchants' Union Express Company, but to maintain their rates upon others. The new company was treated as an intruder, and outlawed. The business the old companies determined to maintain, was the whole express business, within their respective territories, "on the routes occupied" by those companies. To maintain this monopoly, honorable and liberal business relations with the intruding company were forbidden, their obligations as common carriers to receive and carry freight from all repudiated, and a wholesale and unlimited cutting of rates at competing points entered on. This attempt to interfere with and prevent the establishment of a competing business is certainly not entitled to favor. Against it all rights ought to be protected, and all obligations enforced. We are not prepared, however, to advise any legislation in reference to the matter.

6. We have already adverted to the apparently uniform policy and practice of freight and express companies, of having portions of their stock in the hands of railroad officers. At the time the law of last winter, relative to the ownership of such stock by the officers and agents of railroads, was enacted, the larger number of those we examined were owners of it in one or more companies, but had, in most instances, disposed of it after the passage of that law. In some instances they yet retain it. The law referred to, though not carefully enough considered in some of its provisions, was a wise one in its object, and has proven already very useful in its effects. It is founded upon the principle that the integrity and fidelity of railroad officers and agents shall not be tempted by inconsistent interests, or embarrassed by inconsistent duties. It is a simple and fundamental principle in the laws of all civilized communities, and governs every prudent man in the management of his private business. No business man permits his clerk to become the agent of his customer; no court allows a trustee to deal with or speculate in his trust; no law allows a man to hold inconsistent offices. In railroad management, by reason of the easy concealment the complexity of its affairs and the practical impossibility of their examination affords to unfaithfulness and speculation, this becomes an indispensable rule of protection to railroad stockholders.

Yet we are compelled to say as the result of our examination, and an extensive intercourse with railroad officers and agents, that this rule is to a great extent ignored in railroad management in this State. Agents and officers of every grade, sometimes openly, with the approval of the Board of Directors, or superior officers, often secretly, deal with the road, accept offices and employments inconsistent with their duties to it, and engage in business interfering with the rights and accommodations of its patrons. We can advert to only a few illustrations.

In the case of the Cincinnati and Zanesville Railroad, already referred to, the station agent at New Lexington, the medium of communication between the shippers at that

point, and the road, is permitted to engage in the purchase and shipment of coal from the mines, with all the temptations to abuse the advantages of his place to advance his own interest, and with a pending controversy between the road and miners as to transportation. Pending this same controversy, with a part of the mines closed and others working with reduced force for want of cars to ship the coal to market, the President and two of the Directors purchase coal lands upon the road and organize a large coal company to engage in the business of mining, the only difficulty of which has been the limited and expensive transportation of the road. In this case, these officers must deal with their own company as to rates, and decide their disputes with other shippers, as to facilities. So in the case on the Central Ohio, in the season of coal famine, when with the aid of distant roads sufficient transportation could not be had, the superintendent advances money to a coal dealer, and in return shares his profits. Is it surprising that this dealer shall be able, with the control of cars, to command in the market a profit of nearly two hundred per cent. in his sales of coal, without expending a particle of labor, or a dollar of money?

On the Atlantic and Great Western, the freight agents in New York and Cincinnati, bound by their offices to devote their whole exertions to the increase of its traffic, are employed, with the knowledge of their superior officers, as soliciting agents of a rival transportation line. On the same road the general freight agent, charged with duty of guarding its rights as against shippers, and its interests, caused to be made out in his office, the accounts against it, of a freight line operating over it, and received from the proprietor thereof \$1500 for the year 1865. In the case of the Great Eastern Despatch, the freight agent and superintendent became partners in a freight line, operating over their road, from which they receive a yearly profit more than three times as large as their salaries.

It will be observed in the evidence, that the President of one road is part owner in a transportation company operat-

ing in competition with it. But we must refer the Senate, in part, to the testimony for further illustration of the confusions of duties and interest widely admitted into railroad management in this State. It prevails in the supply department as well as the employments of the roads.

In one respect, particularly, a practice prevails, which, owing to its extent, deserves to be mentioned. We refer to the employment of station agents by express companies. It tends to improper interference with the rights of the public in the carriage of baggage and parcels on passenger trains, with the interest of the road in its freight traffic, and with the rights of competing express companies.

Is it surprising that with such rules of business management, with such relations existing between officers and agents and their roads, the stock should become worthless, or yield irregular dividends to stockholders? Can it be expected that, in the strife between private interest and official duty, the latter must not wholly or partially give way? In even the more flagrant cases which we have examined, they seemed to have proceeded, not so much from corruption as from a confusion of all distinctions of interest or duties in the relations of the officers, and the thoroughly unsound rules of management so extensively prevailing among railroad managers. In this respect there ought to be a thorough change. Railroad agents and officers, as strictly as men holding fiduciary employments or trusts in other cases, should not be permitted to assume duties or acquire interests inconsistent with the interests of their roads.

We have examined matters relating to the safety of travel, but are able to add nothing to what is generally known as to the cause of accidents. Their prevention is to be generally secured by maintaining a sound physical condition, and a prudent and faithful management of roads, and preventing intrusion, interference or misconduct of passengers or others. Far the larger proportion of accidents to life and limb result from misconduct of passengers in standing on the platforms, passing from one car to another whilst in motion, or otherwise violating the rules of the road, the thoughtless or reck-

less driving, riding, or walking on or across the track, placing obstructions on, or other malicious interference with the roads, running over the cattle straying or driven on them, or other default or misconduct of other persons than railroads and their agents.

These, as well as matters relating to the condition of the road, and the conduct of its agents, are matters of detail, to be provided for by numerous regulations, some of which must be committed to the discretion of a State supervising officer and the officers of the roads, and all carefully considered with reference to the rights and convenience of the people, the efficiency of the road, and the protection of both. Some of these regulations we have deemed proper to submit to the consideration of the Senate, in the bill we shall present herewith.

Other matters affecting the convenience and rights of both the public and railroads have been brought to our attention in the form of representations or complaints, some of which appear in the testimony, and many of which are entitled to the careful consideration of the Legislature. At numerous places in the State, at railroad depots, and especially at the junctions, pickpockets and robbers gather and steal, and in the night season waylay and rob passengers and depot agents. At some points this is becoming a source of great danger and alarm to adjoining communities and the traveling public, and being without the means of effective local police, the only remedy seems some police provision by the State.

Great complaint also exists as to the failure of railroads to make fences, as required by law. This is a source of constant loss and irritation to the farmers along the lines of the railroad. The obligation to make fences is not adjusted, perhaps, on exactly equitable principles. In some cases, as a part of the consideration of the right of way, the roads assumed the burden of fencing. This obligation should be strictly and unconditionally enforced. In other cases, where the right of way is acquired for a consideration paid to the owner without such agreement, we see no reason why the

same rule should not be applied as to fencing, as exists with reference to conterminal proprietors in other cases,—each building one half the fence. But in any event, the obligation to fence should be enforced absolutely, in the interest of public safety, and the claims for building fences should have, in their collection, the priority and speedy process of taxation against the road, to protect private rights of adjoining proprietors, and against both parties, to protect the safety of persons and property of the public in transportation.

It is not necessary to discuss or even specify all the grounds of complaint. All of them are constantly aggravated by the frequent inattention or insolence of railroad agents, adding a feeling of oppression to the sense of loss.

It is, however, much easier to discover grievances than to devise a remedy. Some arise from temporary causes, which we may rely upon the early effects of events to remove; others proceed from causes imperfectly understood, or entirely unknown; and still others are incident to the workings of a new system of immense magnitude and complication, which we must in part endure. It has not yet been half a century since the first railroad began operation, and yet the railway system of the United States affects every interest and value, and directly reaches and controls, in a greater or less degree, all the business transactions and personal movements of its people. The science of railway management is yet in its infancy, and the relations of railroads to each other and the public very imperfectly understood. Legislation, to be safe, must be limited to what experience may have shown to be practicable and expedient. Beyond this it is dangerous, blind, and therefore inevitably mischievous.

Some abuses have been wanton and unnecessary. But impatience with all would be unreasonable. If we vigilantly watch and punish corruption, cut off excrescences and unnecessary burdens, and foster the railroads with the indulgent care the magnitude of the interest and its immense value to our people so fully justify, the abatement of abuses and causes of complaint will soon follow. On the other hand, a hostile spirit toward them is alike destructive to public and

private interest. The public benefits conferred by railroads cannot be enumerated or valued. To the church and school they stand next as agencies of civilization, of material and social progress. They are the means of our growth and power, and the foundations of our wealth.

There are two interests in railroads equally to be protected, and yet carefully limited. One is that of the public, for whose benefit they were built, in whose behalf the corporate franchises were conferred, and the eminent power of the State in appropriating private property, that final dominion over private right which she reserves for public use, was exerted. The other is the private interest of stockholders, who have made investment of their means to construct and operate railroads, under the authority to manage them, and charge the public sufficient amount for their use to yield a reasonable profit upon their investment.

The duty of the Legislature to fully protect the public interest is undisputed; it is not less its duty to protect private rights. Protective legislation ought always to be strictly limited to the necessities existing. Private interests in railroads are peculiarly helpless and exposed. Its business is so extensive and complicated that investigation by the stockholders is practically impossible. The annual reports of the officers, which show nothing but the results, is all that they see. The footings of the accounts may provide no dividends; his stock is marketable property of itself, distinct from the property of the corporation, which he can sell; if it ceases to be of value to hold, he can find the relief in the markets which he cannot get in the offices and management of his company. In this way the annual reports become practically conclusive; all back of them is a sealed book.

We have had occasion to observe, during the progress of our investigation, the difficulties a stockholder must meet in any attempt at examination into the affairs of his company. In the multitude of stockholders, scattered and strangers to each other, co-operation is out of the question. There are but few men, alone, who have sufficient determination and courage to encounter the odds against them in such an

inquiry, the influence of the officers, and the labyrinth of railroad transactions and accounts. He is accused of malice and meddling; generally without aid; any clerk or foreman may mislead him, and in the end he has to meet the contingencies of a failure, though it may not show that he ought not to have succeeded. The majority of roads in Ohio have been, financially, failures, and yet how little is known beyond the abstract of the accounts in official reports? A portion of these roads have been for years in the hands of receivers, some of whom, it is said, have delayed filing accounts for over a year, and in one or more cases for as long as three years. These receivers are also, in many cases, presidents of the companies whose roads they have charge of. It is obvious that with the control of the corporation to which he must in fact account, and which is the representative of the stockholders in the suit in which he is acting as receiver, the difficulties of examination to the stockholders are greatly augmented. Other roads having gone on to the Stock Boards of New York, their stock has become simply cards for its brokers to gamble with, leaving the roads without private interests represented in a form to protect the road from the speculation of officers, if the means even were afforded.

Owing, therefore, to the circumstances and condition of private interests in railroads, and the public use they support, it is not merely the right but the imperative duty of the State to intervene in their behalf, and afford to them full and adequate protection.

Your Committee, after a very careful consideration of the subject, have become convinced that the initial in, and the necessary foundation to, a wise and efficient system of railroad legislation, is a State officer, charged with the duty of collecting the statistics and the experience of railroad management in the State; of observing its immediate wants and defects; of attending to the enforcement of the laws against them, and of examining into the abuses in railroad affairs with the view to protect the rights of the stockholders, and the rights and safety of the public. With limited powers at first,—they may be enlarged as experience may show to be

safe,—no embarrassment to the railroads, from improper interference with the management of their affairs, can exist, nor any supervision of them to which an honest railroad officer can object.

On the other hand, it will afford present relief to many abuses that ought to be abated at once; remove many complaints, upon full information that showed them unfounded; relieve officers from suspicion arising from circumstances not understood; and provide for an enforcement of the laws as to railroads, scarcely any of which are now fully observed, and many of them utter dead letters upon our statute books.

The business of managing railroads requires the same business judgment, and is governed by the same general business rules, that apply to other branches of business. There is, nevertheless, by reason of the circumstances heretofore mentioned, great ignorance as to railroad management, which becomes the occasion of every description of suspicions affecting its integrity and fairness, unjustly injuring the reputation of many honest officers, and destroying public favor and confidence in railroads. The appointment of the officer and the exercise of the powers above described, will greatly diminish or entirely remove this serious evil.

Respectfully submitted.

WARNER M. BATEMAN,
SAMUEL WILLIAMSON,
JAMES C. HALL.

A BILL

TO PROVIDE FOR THE APPOINTMENT OF A COMMISSIONER OF RAILROADS
AND TELEGRAPHS, AND TO PRESCRIBE HIS DUTIES.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That there shall be appointed by the Governor, by and with the advice and consent of the Senate, within days after the passage of this act, a person to be styled the commissioner of railroads and telegraphs, who shall hold his office for a period of years, and until his successor is appointed and qualified. The person who is so appointed shall be an elector of this State, and shall have no official connection with any railroad, nor during his term of office own or be interested in the stock, or in the employ of any railroad. In case of vacancy by death, resignation, removal from the State, or otherwise, the Governor shall fill the vacancy and report the name of such appointee to the Senate if in session, and if not, within ten days after the commencement of the next session, who by the advice and consent of the Senate, shall hold his office for the full term of years, as hereinbefore provided, from the day of his appointment.

SEC. 2. Before entering upon the discharge of the duties of his office, said commissioner shall take an oath or affirmation to support the Constitution of the United States and of this State, and to faithfully and honestly discharge his duties as such commissioner, and that he is not an officer, stockholder, or employé of any railroad or in any way interested therein.

SEC. 3. He shall receive for his services thousand dollars per annum, and shall be furnished with an office, office furniture, and stationery, at the expense of the State. He shall have power to employ a clerk to perform such duties as may be assigned by him, to be paid out of the State treasury at the

rate of dollars per annum, the time of actual service to be certified by the commissioner to the auditor of the State.

SEC. 4. Said railroad commissioner shall have the right of passing, free of charge, in the performance of his duties, on all the railroads in this State, and to take with him any person in his official employment, or to send any person employed to assist him in the performance of his duties upon such railroads, free of charge.

SEC. 5. It shall be the duty of such commissioner, whenever it shall come to his knowledge, either upon complaint or otherwise, or he shall have reason to believe that any of the officers, employés or agents of any railroad in this State are violating any of the laws of this State relating to railroads, to examine into all such violations; and if such complaint shall be found true, he shall report the same to the Governor with his annual report, to be laid before the General Assembly. In making such examination, he shall have power to issue subpœna for witnesses and administer oaths. He shall prosecute or cause to be prosecuted, all violations of any of the laws relating to railroads, if in his opinion such prosecution will be of public advantage.

SEC. 6. Whenever the commissioner shall have reasonable grounds to believe, either on complaint or otherwise, that any of the tracks, bridges, or other structures of any railroad in this State are in a condition which renders any of them unfit for the transportation of passengers with reasonable safety, or dangerous, it shall be his duty to inspect and examine the same; and if on such examination in his opinion any of such tracks, bridges, or other structures or works are unfit for the transportation of passengers with reasonable safety, or dangerous, it shall be his duty to give to the superintendent or other executive officer of the company working or operating said defective track, bridge, or other structure, notice of the condition thereof and of the repairs necessary to place the same in a reasonably safe condition; and may also order and direct the rate of speed of passing trains near such dangerous or defective track, bridge, or other structure until the said repairs are made, and the time within which such repairs

shall be made by the company; and if any superintendent or other executive officer aforesaid, receiving such notice and order, shall wilfully neglect, for the period of days after receiving such notice and order, to direct the proper subordinate officers of the company to run the passenger trains over such defective track, bridge, or other structure at the speed so prescribed by the commissioner; or if any engineer, conductor, or other employé of such company, shall knowingly disobey such order, every such superintendent, officer, conductor, or employé, shall be deemed guilty of a misdemeanor, and on conviction thereof upon indictment, shall be fined in any sum not exceeding five hundred dollars. If said company shall, without reasonable cause, neglect to make said repairs within the time prescribed by said commissioner, such company, for each and every day that ensues thereafter and until said repairs are made, shall forfeit and pay to the State the sum of one hundred dollars.

SEC. 7. It is hereby made the duty of the president or other officer in charge of any railroad company in this State, annually, during the month of October, to prepare and transmit to the commissioner a full and true statement, under oath, of its affairs for the preceding year, ending on the first Monday of July, specifying:

- 1st. The amount of capital stock paid in.
- 2d. The amount of capital stock unpaid.
- 3d. The amount of funded debt per last report.
- 4th. The amount of funded debt paid since last report.
- 5th. The increase of funded debt since last report.
- 6th. The present amount of funded debt.
- 7th. The amount of floating debt per last report.
- 8th. The amount of floating debt paid since last report.
- 9th. The increase of floating debt since last report.
- 10th. The present amount of floating debt.
- 11th. The estimated value of the road-bed, including iron and bridges.
- 12th. The estimated value of its rolling stock.
- 13th. The estimated value of its stations, buildings, and fixtures.

- 14th. The estimated value of all its other property.
- 15th. The length of single main track.
- 16th. The length of double main track.
- 17th. The length of branches, stating whether they have single or double track.
- 18th. The aggregate length of sidings and other tracks not above enumerated.
- 19th. The maximum grade, with its length in main road, and also its branches.
- 20th. The total rise and fall in main road, and also in branches.
- 21st. The shortest radius of curvature, with length of curve in main road, and also in branches.
- 22d. The total degrees of curvature in main road, and also in branches.
- 23d. The total length of straight line in main road, and also in branches.
- 24th. The number of bridges, aggregate length, and whether wood or iron, distinguishing between main track and branches.
- 25th. The whole length of road unfenced on both sides.
- 26th. The number of miles run by passenger trains.
- 27th. The number of miles run by freight trains.
- 28th. The number of tons of through freight carried.
- 29th. The number of tons of local freight carried.
- 30th. The rate of speed adopted for express passenger trains, including stops.
- 31st. The rate of speed actually attained by express passenger trains.
- 32d. The rate of speed adopted for mail and accommodation passenger trains, including stops.
- 33d. The rate of speed actually attained by mail and accommodation trains, including stops and detentions.
- 34th. Its monthly earnings for transportation of passengers.
- 35th. Its monthly earnings for transportation of freight.
- 36th. Its monthly earnings from all other sources.

37th. The amount of expense incurred in the running and management of passenger trains.

38th. The amount of expense incurred in the running and management of freight trains.

39th. All other expenses incurred in the running and management of the road.

40th. The amount expended for repairs of road and maintenance of way, including renewal of iron and repairs of bridges.

41st. The amount expended for motive power and cars.

42d. The amount expended for station houses, buildings, and fixtures.

43d. All other expenditures for maintenance of way.

44th. All other expenditures, either for management of road, maintenance of way, motive power and cars, or for other purposes.

45th. The rate of fare for passengers and its tariff of freights, as published for the government of its agents.

46th. A statement of all casualties resulting in injuries to persons, and the extent and cause thereof.

47th. What express companies run on their roads, and on what terms.

48th. What freight or transportation companies run on the road, and on what terms.

49th. The number and description of new bridges built.

50th. The greatest age of bridges.

51st. The average age of bridges.

52d. The length of rail relaid, new, rerolled, or old.

53d. The number of switches on the road, and how many private.

54th. The number of road crossings.

55th. How many provided with flagmen.

56th. How many level and how many bridged.

57th. The number of wheels and of axles in use in passenger trains.

58th. How many have been removed during the year, and such other information as may be required by the com-

mission. The commissioner shall prepare and furnish to each railroad company, and to each telegraph company or chief manager thereof, in this State, blank forms for making the reports required by this act.

SEC. 8. Every president or other officer in charge of any railroad, who shall wilfully neglect or refuse to make and furnish such report at the time prescribed in section seven, shall forfeit and pay a sum not exceeding one thousand dollars, to be recovered in the name and for the use of the State of Ohio, and he shall be subject to a like penalty for every period of days after the time that he shall wilfully neglect or refuse to make such report.

SEC. 9. It shall be the duty of the chief manager or agent of each telegraph line or company in this State, annually, during the month of October, to furnish to the commissioner, under oath, such information, and in such form as he may require.

SEC. 10. It shall be the duty of the commissioner aforesaid, to make to the Governor, on or before the first day of January of each year, a full and accurate report of the condition and affairs of all the railroad companies and railroads, and telegraph companies and telegraph in the State; also of all accidents resulting in injury to persons, and the roads upon which they occurred, and the circumstances and cause thereof; and such other information, suggestions, and recommendations as he may deem of advantage to the State, to be by him laid before the General Assembly.

SEC. 11. This act to take effect from and after its passage.

A BILL

TO REGULATE RAILROADS.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That all railroad companies that have been, or shall be incorporated under the laws of this State, except those which operate by animal power alone, shall have the powers and privileges, and be subject to the duties and liabilities, and other provisions of this act, except when otherwise specially provided in their respective charters.

SEC. 2. It shall be the duty of every company owning or operating any railroad in this State, to make out a table of rates for the carriage of freight in freight trains upon its road, which rates shall be made upon each article, or class of freight, according to its weight, or the measure thereof in feet, bushels, or barrels; and such rates shall not be varied with reference to the amounts of shipments, upon any freight carried for any corporation, association, or individuals engaged as common carriers, in the transportation thereof on said road; and such company making such table of rates, shall cause a copy thereof, plainly describing the articles and classification thereof, and the charges to be made thereon to the different points of shipments, to be posted in some prominent and accessible place in each freight office, or in the office or offices of every freight agent of such company in this State: Provided, that such company shall have the right to change such published rates at any time, at its discretion, upon making, publishing, and posting, as aforesaid, a new table of rates containing such changes.

SEC. 3. No company, operating any railroad in this State, shall charge, or receive other, or different rates or amounts for the carriage of freight, than such as may be provided for in the table of rates made, published, and posted as provided

in the foregoing section; nor shall it be permitted to contract for, or, in fact, to carry any freight at a fixed estimated amount or classification thereof for a car load, but shall charge the rates aforesaid, upon the actual amount and classification of such freight, neither shall it, nor any agent by it employed within this State, contract for, or in fact pay or allow to the shipper, any sum in the nature of a drawback, or reduction to him from the rates aforesaid, or as a compensation for his custom.

SEC. 4. That any such company, that shall violate the provisions of the two preceding sections of this act, shall forfeit and pay a sum of not less than one hundred dollars, nor more than one thousand dollars, at the discretion of the court, for each offence; and any agent of such company who shall violate the provisions of section three, shall forfeit and pay a sum not less than fifty dollars nor more than one hundred dollars, at the discretion of the court; said penalties to be collected in a civil action in the name of the State of Ohio, and one-half thereof paid to the informer, and the balance into the treasury of the State; and every shipper who shall pay the full rates to such company, so violating the provisions of section three of this act, shall be entitled to recover back from the company the difference between the rate paid by him, and the rate actually paid by the shipper to whom such drawback or reduction was allowed.

SEC. 5. That every such company shall afford all reasonable facilities for receiving, and forwarding, and delivering of freight upon and from the several railways or lines of water transportation, over, or from which such freight may be directed to be carried, and for carrying, forwarding, and delivering freight to and from all way stations, or the termini of the road of such company, or roads connected therewith; and no such company shall make or give any undue or unreasonable preference or advantage, to, or in favor of any particular person or community, or company, or any particular description of freight, in any respect whatsoever; nor shall any such company subject any particular person, company, or community, or any particular description of freight,

to any undue or unreasonable prejudice or disadvantage, in any respect whatsoever.

SEC. 6. Whenever connection does or shall exist between the tracks of two or more railroads within this State, or whenever the tracks of such railroads shall, in fact, so join or meet each other, as that the cars of each may, without any change of gauge, or new work of construction, pass from the track of one to the track of the other, the companies owning or operating such railroads, shall pass freight over their respective railroads, from one another, to the places of its destination, without breaking bulk, and shall sell passenger tickets, and check baggage, from any station on their respective roads, to any station on the other, where their trains may stop, upon such terms and conditions as they shall agree, and in default of such agreement, upon such reasonable terms as the court that may have cognizance of the matter may prescribe; and any such company operating a railway in the State, having such connection with two or more railroads, shall receive freight and passengers from, and pass them to such railroads, without giving any undue or unreasonable advantage to either, or subjecting either to any undue or unreasonable prejudice, delay, or disadvantage, in any respect whatever.

SEC. 7. No company, owning or operating any railroad in this State, shall be allowed for the carriage of freight or passengers upon its road, a greater rate for any distance, than for any other longer distance, but the charges aforesaid shall have due and reasonable proportion to each other, having reference to the relative distance, and costs and inconvenience of the service of transportation, and the rate per mile for the carriage of passengers shall not be, for any distance, more than thirty per cent. greater than the lowest rate per mile charged upon such road.

SEC. 8. In case of a violation of any of the foregoing sections, by any railway company in this State, a civil action may be brought by any person or corporation aggrieved thereby, to recover damages therefor, or to restrain such violation, or to compel such company to specifically perform

the duty imposed in his or its favor, by said sections; and in case such company shall establish any rule or order, or maintain or permit any practice, in violation of said sections, or shall omit or neglect the performance of the duties imposed upon it, the commissioner of railroads and telegraphs shall, upon complaint made, or at his own instance, if he shall be satisfied that the public interest will be advanced thereby, bring a civil action in the name of the State of Ohio, in the Superior Court of Cincinnati, or in the Court of Common Pleas of any county through which such railroad may pass, as may be most convenient, against such company, to restrain such violation, or to compel the specific performance of the duties so neglected to be performed.

SEC. 9. No president, superintendent, or freight agent of any railroad company of this State, shall hold any office or employment in any other railroad company, either in or outside of this State, except in the transaction of the joint business of such companies, or where the railroad of one company shall be leased by the other; nor shall such officers, or the agents of any railroad company in this State, in matters relating to or affected by their agency, acquire or hold any interest, direct or indirect, in any contract, business, or employment, with or upon said road, or hold, or have any interest in the stock of any express company, freight or despatch company, or in any line of water transportation connecting or competing in part or wholly with their road; and every such officer or agent violating the provisions of this section, shall forfeit and pay to the State of Ohio, for each offence, a sum not less than fifty, nor more than one thousand dollars; and every contract made by such officer or agent, to acquire, transfer, or otherwise affect the title, profits, emoluments and advantages of the office, employment, business, stock or interest, prohibited by this section, shall be wholly void.

SEC. 10. The commissioner of railroads shall, upon complaint made in writing by any number of stockholders or creditors, not less than five, assigning sufficient reason therefor, visit and inspect the railroad of any company in this

State, its rails, switches, road crossings, buildings, stations, works, bridges, and the engines and cars belonging thereto, and shall investigate the condition of such railroad, and examine its by-laws and regulations, and the conduct of its officers and agents, and make any and all other inquiries, needful to determine whether the affairs of such company are managed conformably to law, to the rights of stockholders, and to the rights, convenience, and safety of the public.

SEC. 11. Every railroad in this State shall be provided by the company operating the same, with a ticket office at every station at which any of its trains regularly stop, which shall be kept open, not less than thirty minutes previous to the departure of each passenger train therefrom, for the sale of tickets; and also one ticket office in every city of the first and second class at its termini or along its line, centrally located therein, in addition to the ticket office at its depot, which shall be kept open during the business hours of every day in the week, for the sale of tickets.

SEC. 12. Every passenger who shall wilfully neglect or refuse to procure a ticket before getting on the train, for the distance he designs to travel on the road, shall forfeit and pay to the State of Ohio, for each offence, a sum not less than dollars, nor more than dollars, and shall be liable to pay to the conductor of such train, in addition to his regular fare, the sum of ten cents for any distance under fifteen miles, fifteen cents for any distance over fifteen and under thirty miles, and twenty-five cents for any distance over thirty miles.

SEC. 13. Any officer or agent of a railroad company, that shall demand from any passenger a greater rate of fare than is or may be authorized by law, shall forfeit and pay to the State of Ohio a sum not exceeding ten dollars, at the discretion of the court.

SEC. 14. Any agent or officer of a railroad company who shall wilfully mislead or deceive any passenger to his prejudice in reference to the route of travel, connection of trains, or other matters relating to the expense, convenience, or

length of his trip, shall be liable to a fine of not less than five dollars nor more than one hundred dollars, or be imprisoned in the jail of the county for a term not exceeding six months, or both, at the discretion of the court.

SEC. 15. Comfortable seats in the cars shall be provided for every passenger, who shall have become entitled to a ride therein by the purchase of the proper ticket, or the payment or tender of payment, of the lawful fare therefor, and such passenger shall be entitled to the use of such seat to such place as he shall have acquired the right to ride as aforesaid; and every railroad company shall, from the first day of November of each year, provide on its passenger trains, for the free use of passengers, a good quality of drinking-water, to be distributed with the use of clean and suitable cups or tumblers, and other vessels, to the passengers of each car, at intervals not exceeding ninety minutes.

SEC. 16. Every conductor, brakeman, and baggageman, employed upon the passenger trains of any railroad company in this State, and every baggage-master at any depot upon the railroad of such company, shall wear, when on duty, so as to be readily seen, a badge or mark indicating their respective offices and duties, and the company by whom they are employed.

SEC. 17. Every railroad shall provide for the care and preservation of the baggage, give to each passenger a check for such as may belong to him as evidence of his right thereto, and provide for the convenient receipt and delivery or transfer thereof; and every agent or employé of the road who shall recklessly or carelessly abuse, injure, or handle any baggage, package, or parcel belonging to such passengers, shall forfeit and pay to the State of Ohio not less than three nor more than ten dollars, at the discretion of the court, and both he and the company by whom he is employed, shall be liable in damages to the party injured.

SEC. 18. No railroad company, having had a system of commutation of fares in force for four years, shall abolish, alter, or modify the same, except for the regulation of the

price charged for such commuted fares; and such price shall, in no case, be raised to an extent that shall alter the ratio existing between such commuted and regular way fares on the 1st day of January, 1867, or at the end of said term of four years, if the same shall not have then expired, on the railroad of such company, on the said 1st of January, 1867.

SEC. 19. No railroad company shall run, or permit to be run upon its road, any train of cars for the transportation of passengers, unless there is placed upon the train one trusty and skilful brakeman to every two cars in the train.

SEC. 20. If in consequence of the intoxication or any gross or wilful misconduct, or negligence in his office or employment, on the part of any conductor, engineer, or of any switch or bridge tender, brakeman, signalman, or any other servants of a railroad company, any loss of life or the breaking of a limb, or other serious injury to the person shall be caused, such servant shall be deemed guilty of a felony, and shall be punished by imprisonment in the penitentiary for a term not exceeding ten years nor less than six months.

SEC. 21. Every such conductor, engineer, switchtender, bridgetender, brakeman, signalman, or other servant of such company, who shall by reason of his intoxication, or gross or wilful misconduct, or negligence in his said office or employment, place in peril or endanger the safety of person or property, shall be deemed guilty of a misdemeanor, and fined in a sum not less than twenty-five nor more than two hundred dollars, and imprisoned in the jail of the county not more than months nor less than days, at the discretion of the court.

SEC. 22. Any person who, after a railroad is opened for use, rides, leads, or drives a horse, or other animal on the same, without the consent of the corporation or its agent, except in places where the road is crossed by a turnpike road, railroad, or way upon the same level therewith, shall for every such offence, forfeit and pay to the State of Ohio, a sum not exceeding one hundred dollars, and be liable for all damages thereby sustained by any person.

SEC. 23. Any person who shall wilfully and maliciously obstruct the passage of any engine or car on a railroad within this State, or in any way injure such road, or anything appertaining thereto, or aids or abets in such trespass, or shall throw stones or other missiles, at, or into any car passing on said road, shall be punished for such offence, by a fine not exceeding one thousand dollars, or imprisonment in the county jail for a term not exceeding one year, or both, at the discretion of the court.

SEC. 24. Any person who shall wilfully and maliciously commit any of the acts mentioned in the preceding section, in such manner as thereby to endanger life, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding one year, or both fine and imprisonment in the jail, or by imprisonment in the penitentiary not exceeding twenty years.

SEC. 25. No person who is intoxicated, or who is in the habit of becoming intoxicated, shall be employed or permitted to perform the duties of conductor, engineer, or brakeman upon any train, or of train despatcher, switch-tender, bridgetender, or flagman, or hold any other place or employment upon any railroad, that may affect the safety of persons lawfully passing over or upon such railroad; and any railroad company, or any officer thereof, having control or supervision of persons performing said duties, that shall knowingly violate the provisions of this section, shall forfeit and pay to the State of Ohio a sum not less than dollars, nor more than dollars, at the discretion of the court.

SEC. 26. Persons who, without authority from the railroad company, shall walk upon its track, or who shall, whilst the train is in motion, contrary to the rules of such company, stand upon the platform when sufficient room is afforded by the company inside of the cars, or pass from one car to another, shall do so at his own risk, the company, however, not being released from the duty of care in avoiding an accident or injury.

SEC. 27. Any train despatcher, conductor, engineer, brakeman, switch or bridge tender, or flagman, who shall be intoxicated whilst in the performance of the duties of his said employment, or who shall, while so employed, wilfully violate any of the written or printed rules of the company by whom he is employed, affecting the safety of persons, or of passengers and property being transported upon the cars thereof, shall be subject to a fine of not less than twenty-five, nor more than five hundred dollars, or to imprisonment in the county jail not exceeding six months, or both, at the discretion of the court.

SEC. 28. Railroad companies shall have authority to adopt and enforce reasonable by-laws and regulations concerning the receipt and delivery of baggage, and the custody and care thereof, upon the trains, or in the depots, the conduct and arrangement of passengers upon the trains, the use and occupancy of their tracks, grounds, depots, or other property, and the receipt, delivery, and care of freight, subject, however, to be set aside or modified by the commissioner of railroads.

SEC. 29. Every railroad company receiving freight or baggage for transportation, shall be entitled to the same rights, and subject to the same liabilities, as common carriers; and no such company, or other common carrier, within this State, shall be permitted to lessen, or, directly or indirectly abridge their common law liability as such common carrier.

SEC. 30. In all examinations the commissioner of railroads may be authorized or required by law to make, he shall have power to subpoena witnesses, administer oaths, and require the production of books and papers; and any person who shall neglect or refuse to obey his subpoena and orders therein, or who shall wilfully interfere with, obstruct, or disturb him in such examination, shall be liable to a fine of not less than dollars, nor more than dollars, or be imprisoned in the jail of the county not exceeding thirty days, or both, at the discretion of the court.

SEC. 31. No railroad company shall engage or become in-

terested in any business, trade, or enterprise, other than the carriage and transportation of freight and passengers, as provided by law ; nor shall they erect or maintain any building, structure, or other place for carrying on such business, trade, or enterprise, except when expressly and clearly authorized by law to do so.

SEC. 32. This act shall take effect on its passage.

